

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LEON KORNEGAY,

Plaintiff,

DECISION AND ORDER

06-CV-6153L

v.

THE STATE OF NEW YORK, et al.,

Defendants.

Plaintiff, Leon Kornegay (“Kornegay”), moved to amend his complaint (Dkt. #56) to add four new defendants to the action that was originally filed in 2006. The motion was referred to United States Magistrate Judge Jonathan W. Feldman pursuant to 28 U.S.C. § 636(b).

Magistrate Judge Feldman issued a thorough Report and Recommendation (Dkt. #60) recommending that the motion to amend be denied as to three of the proposed new defendants and grant it as to one of them, Officer Woodward. Kornegay objected (Dkt. #61) to that Report and Recommendation.

The Magistrate Judge recommended denying the motion, in part, because the amendment would be futile since the statute of limitations had run and the amended complaint, as to three of the proposed new defendants, did not relate back to the original complaint. The Magistrate Judge discussed the facts and the legal principles concerning the relation-back doctrine which provides an

exception to the bar of the statute of limitation. I agree with that analysis and conclude, as did the Magistrate Judge, that the amended complaint would be futile because the statute of limitations had run except as to Officer Woodward. The Magistrate Judge recommended that the amendment be allowed as to that officer, and I see no reason to reject that recommendation.


CONCLUSION

I accept and adopt the Report and Recommendation (Dkt. #60) of United States Magistrate Judge Jonathan W. Feldman. I deny plaintiff's objections to the Report and Recommendation.

I grant plaintiff's motion to amend his complaint (Dkt. #56) as to Officer Woodward only but deny the motion in all other respects. The Clerk is directed to file plaintiff's amended complaint as to Officer Woodward.

Officer Woodward is directed to timely appear to answer or otherwise move against the amended complaint in a timely fashion.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
October 18, 2010.